

Public Hearing  
November 15, 2007  
Cherokee, Iowa

Chris Spoelstra: Iowa DNR Water Quality Standards Public Hearing, Cherokee, Iowa, November 15, 2007.

Steve Veysey: Steve Veysey, I live in Ames, Iowa and I'm here representing the Sierra Club tonight, the Iowa Chapter. Glad to be here, beautiful town, I spent several hours here this afternoon. I spent two hours here in the Coffey Cup Café, had a nice conversation with the owner and her daughter about the activities that they know occur on Mill Creek just outside of Cherokee here. They have birthday parties there, they go tubing, their swimming holes, all kinds of contact where you are at risk of ingesting water on Mill Creek. Yet DNR had decided they're not gonna protect that for those kind of recreational activities. And I'm afraid this is happening all around the state. I've put together a map and some handouts that shows where in Iowa the current rulemaking would remove the recreational protection and it would downgrade it to an A1 primary contact to an A2. I'm concerned about some of these streams that are hundreds of miles long, like the Floyd River, the Marlin River, the entire Boyer, the West Nishnabotna, the North Raccoon, Ocheyedan River, I know I didn't get that right, Lizard Creek, Buffalo Creek, some of these streams go through four or five counties, they're hundreds of miles long and yet by removing their primary contact recreation what DNR is really saying is since 1975 nobody has ever recreated in those streams in a manner where they might ingest water. Cause that's what A1 protects for. Recreating in a manner where you might ingest water. Apparently that hasn't happened since 1975 in any one of those streams for hundreds of miles. That's what they're saying when they want to remove primary contact recreation protection and of course we don't think that's true. From my own personal experience on the streams in my area, central Iowa, I know it's not true. A lot of folks here tonight I think are from the wastewater community and engineering firms and things like that, obviously that's a topic of interest to you. I sometimes get the sense that y'all don't really believe that what's coming out the end of the pipe is causing the public health risk or hurting aquatic life. I think we've all done a real poor job meeting DNR and conservation and other groups like the Sierra Group have done a poor job in reaching out to you folks to make sure that everyone understand the kind of Russian Roulette we're playing with when we don't disinfect our effluent and it goes into streams where our kids play. I don't think we've gotten that message across successfully otherwise I think you folks would be a lot more on the bandwagon to really take care of this. I give you the example of Mill Creek, there's a couple of things I wanted to read into the record so that it's in the record if that's okay. I'll start with something that was probably from the February Register in 1998. This is about where waters are not designated as A1 WW1, it requires a re-examination of water bodies with less than section 101A Sub2, Use Designations every three years to determine if new information has become available. If new information indicates that a use is attainable the state or tribe is to revise the use accordingly. So, all of these ones, in all of those on the map, that they're gonna remove primary contact recreation protection from, three years from now they have to do that again. That's what the rule says. About primary contact, once again, readings from the same February Register 36756, July 7, 1998, EPA's current thinking is that physical factors alone, meaning low flows, would not be sufficient justification for removing or failing to designate a primary contact recreational use. I think I have two other things to read in real quickly. The issue of recreational uses and the factors that need to use under 40 cfr 131.10g, the six factors it says that physical factors may not be used as basis for not designating a recreational use consisting with the Clean Water Act, Section 101A2. Recluses' states from using 40 cfr 131.10g factor 2 pertaining to low flows and factor 5 pertaining to critical factors in general. Basis for this policy is that the states and EPA have an obligation to do as much as possible to protect the health of the public. In certain instances people will use whatever water bodies are available for recreation regardless of the physical conditions and I'm quoting from the Water Quality Standards Handbook, Second Edition 1994, which is the official guidance from EPA on how states are to implement their Water Quality Standards. In looking at the UAA documents and the, for the streams that are having their primary contact designation downgraded, in almost every case, the DNR is using citing factor two and only factor two as the

basis, i.e. low flow. EPA in their official guidance has clearly stated you cannot do that. Now it's common sense that people recreate based upon what the flow is. At times of low flow, that's when I'm going to take my kids down and let them play and splash and water, at times of higher flow, that's when my teenager and his buddies take their tubes and their raft and they start tramping down around, down along the creek. At times of really high flow, that's when we get these crazy white water kayakers out there, so that's the basis for the EPA saying you must protect for primary contact recreation because at times of low flow or high flow, there will be people recreating. The last thing I wanted to read into the record, this business of aquatic life, because DNR is downgrading the aquatic life designation of virtually all of these streams, matter of fact, 99.5 percent of the stream miles that are being downgraded for recreational use are also losing an aquatic life designation. The Aquatic Protection Use is a broad category requiring further explanation, I'm quoting from the Water Quality Standards Handbook, page Section 4.104.2. Not aberational resident species must be protected even if not prevalent in number or importance. Water Quality should be such that it results in no mortality and no significant growth or reproductive impairment of resident species. Any lowering of water quality below this full level of protection is not allowed. Now I was glad that Adam clarified the issue of ammonia, that in fact all three aquatic life designations 1, 2 and 3 have essentially the same ammonia limits in all the months. I disagree with him about the pH issue that allows mechanical plants to have the very high acute limit. However, the other issue or difference between WW1 and WW2 is the dissolved oxygen level that is used to calculate the CBOD5 limits. In WW2, there is a time period and an averaging period where the dissolved oxygen is allowed to be considerably less, twenty percent less than it is with the WW1 designation and we have asked staff repeatedly to confirm for us that lower level of dissolved oxygen is being used to calculate your permits. Is in fact protective of growth and reproduction of all the fish that are present, and they have not yet given us a satisfactory answer. Those are all the comments I have tonight, I reserve the right to submit additional comments at a later date. Thank you.